

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DONAVAN TROY FORTIN,

3:07-CV-00633-PK

Petitioner,

ORDER

v.

MARK NOOTH,

Respondent.

BROWN, Judge.

Magistrate Judge Paul Papak issued Findings and Recommendation (#137) on May 16, 2016, in which he recommends the Court deny with prejudice Petitioner Donovan Troy Fortin's Second Amended Petition (#92) for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 and grant a certificate of appealability on Petitioner's Second and Third Grounds for Relief. Petitioner filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*).

This Court has carefully considered Petitioner's Objections concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Papak's Findings and Recommendation (#137) and, therefore, **DENIES with prejudice** Petitioner's Second Amended Petition (#92) for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 and **GRANTS** a certificate of appealability on Petitioner's Second and Third Grounds for Relief.

IT IS SO ORDERED.

DATED this 1st day of September, 2016.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge